

## ACKNOWLEDGMENTS

1. The Examiner acknowledges receipt of the amendment filed 3/23/09 wherein claims 1, 9, and 12 were canceled and claims 2, 3, 5, 11, and 13 were amended.

**Note:** Claims 2-8, 10, 11, and 13 are pending.

## EXAMINER'S AMENDMENT

2. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Craig Bohlken on 6/8/09.

The application has been amended as follows.

Claim 2, line 19, delete 'or derivatives thereof'.

Claim 2, lines 25-26, replace 'the compound further comprising at least one group Z, representing a fluorescein dye, linked to one or more of the groups X<sub>1</sub>, X<sub>6</sub> or X<sub>7</sub> optionally via a spacer group' with –wherein at least one of the fluorescein dye is linked to one or more of the groups X<sub>1</sub>, X<sub>6</sub>, or X<sub>7</sub> optionally via a spacer group–.

Claim 3, line 13, replace 'and wherein at least one of the Z groups is present representing a fluorescein dye' with –and wherein Z represents a fluorescein dye–.

Replace Claim 4 with the following.

4. (Currently Amended) A compound of formula III as claimed in claim 3 wherein R<sub>a</sub> represents -(CH<sub>2</sub>)–.

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Claim 10, line 2, replace '1' with -2-.

Claim 11, line 2, replace '1' with -2-.

### **ALLOWABLE CLAIMS**

3. Claims 2-8, 10, 11, and 13 are allowable over the prior art of record. In particular, the claims are allowable over the prior art of record because the prior art neither anticipates nor renders obvious the compounds as set forth in independent claim 2.

### **INFORMATION DISCLOSURE STATEMENT**

4. The information disclosure statement filed 3/23/09 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there was no English translation of the German document provided. It has been placed in the application file, but the information referred to therein has not been considered as to the merits.

Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609.05(a).

5. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to D L. Jones whose telephone number is (571)272-0617. The examiner can normally be reached on Mon.-Fri., 6:45 a.m. - 3:15 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Hartley can be reached on (571) 272-0616. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/D L. Jones/  
Primary Examiner  
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June 8, 2009